

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village  
(Select one)

of Fleming

FILED  
STATE RECORDS

AUG 25 2020

Local Law No. 1 of the year 2020

DEPARTMENT OF STATE

A local law Amending the Town of Fleming Zoning Law  
(Insert Title)

Be it enacted by the Town Board of the  
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village  
(Select one)

of Fleming

as follows:

(see attached pages 1-7)

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2020 of the (County)(City)(Town)(Village) of FLEMING was duly passed by the TOWN BOARD on JULY 13 2020, in accordance with the applicable provisions of law.  
(Name of Legislative Body)

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

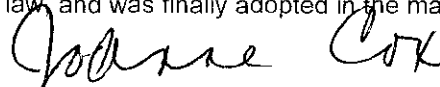
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20 \_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

  
Clerk of the county legislative body, City, Town or Village Clerk or  
officer designated by local legislative body

Date: 7/13/2020

(Seal)

## **Town of Fleming Local Law 2020-1:**

### **A Local Law Amending the Town of Fleming Zoning Law**

Be it enacted by the Town Board of the Town of Fleming, New York as follows:

#### **Section 1. Title**

The title of this local law shall be: “A Local Law Amending the Town of Fleming Zoning Law”.

#### **Section 2. Legislative findings, intent, and purpose**

The Town Board hereby finds and determines that it is necessary and desirable to amend the Town Zoning Law to:

- (a) add a definition for “marina” in Article I, and include marinas as a specially permitted use in the Lakeshore District subject to the provisions of Article VIII;
- (b) amend Article VI and the corresponding Agricultural District Bulk and Use Table to reduce the minimum permitted lot size for certain specified uses in the Agricultural District from the current ten (10) acres to two (2) acres;
- (c) amend Article VII and the corresponding R-2 Residential District Bulk and Use Table to allow by special use permit certain accessory structures (*i.e.*, garages) on lots at least five (5) acres in size without a primary residence, subject to the provisions of Article VIII (Special Use Permits);
- (d) amend Article VII and the corresponding R-2 Residential District Bulk and Use Table to increase the minimum lot size for Agricultural Based Business uses from 76,000 square feet to five (5) acres;
- (e) amend Article VII Section 7-16(A)(2)(b) and the corresponding Bulk and Use Tables to set a minimum side and rear setback distance of ten (10) feet for accessory structures and buildings less than 144 square feet in area in all zoning districts;
- (f) amend Article XII Section 12-4(c) to exempt “posted property” signage from the minimum 10-foot side property setback distance requirement applicable to all other signage;
- (g) amend the definition of “Major Subdivision” in Article XVI Section 14-2 to set a maximum limit of one (1) such subdivision allowed for a given lot over a ten-year period;
- (h) amend the definition of “Minor Subdivision” in Article XVI Section 14-2 to allow a maximum aggregate total of four (4) subdivided parcels using the minor subdivision approach for a given lot over a ten-year period; and

- (i) reorganize and renumber the provisions of Article VIII for convenience, and correct any typographical errors found elsewhere within the Zoning Law.

### **Section 3. Statutory authority**

This chapter is enacted under the authority of Subparagraphs (a)(12) and (d)(3) of the Municipal Home Rule Law § 10(1)(iii) and Municipal Home Rule Law § 22. To the extent that the Town Law of the State of New York does not authorize the Town Board, Town Planning Board or Town Zoning Board of Appeals to handle applications or conduct procedures in the manner set forth within the Zoning Law Amendment, it is the expressed intent of the Town Board to change and supersede such statutes. It is the expressed intent of the Town Board to change and supersede Town Law §§ 64(17-a), 264, 265, 267, 267-a, 267-b, 274-a, 274-b, 276, 277, 278, and 280-a to empower the Town to provide its own specific procedures for its boards to handle applications and conduct procedures.

### **Section 4. Intent to Amend Existing Zoning Code**

This Local Law No. 2020-1 is intended to amend the existing Town of Fleming Zoning Law (originally adopted December 22, 2008 and amended thereafter) and the corresponding Bulk and Use Tables that accompany that Zoning Law.

### **Section 5. Body of Local Law**

The body of Local Law No. 2020-1, *i.e.* the several amendments to the Town Zoning Law, is attached hereto in its entirety as Exhibit "A".

### **Section 6. Severability**

If any section, clause or provision of this chapter or the application thereof to any persons is adjudged invalid, the adjudication shall not affect other sections, clauses or provisions or the application thereof that can be sustained or given effect without the invalid section, clause or provision or application, and to this end the various sections, clauses or provisions of this chapter are declared to be severable.

### **Section 7. Effective date**

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State.

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**JO ANNE COX**  
**Town Clerk of the Town of Fleming**  
**Cayuga County, New York**

**EXHIBIT “A”**

**TEXT OF LOCAL LAW NO. 2020-1**

**TOWN OF FLEMING**  
**LOCAL LAW 2020-1**

**A Local Law Amending the Town of Fleming Zoning Law**

WHEREAS, pursuant to authority vested in the Town of Fleming ("Town") by the Municipal Home Rule Law of the State of New York, the General Municipal Law of the State of New York and the Town Code of the Town of Fleming, the Town Board may from time to time amend its Zoning Law as needed to clarify, supplement, reconcile, amend or correct provisions in that Law; and

WHEREAS, in consultation with the Town Zoning Officer and Town Codes Enforcement Officer, the Town Board has considered a number of amendments to its Zoning Law and has selected certain of those amendments to be the subject of a local law for enactment in accordance with its lawful authority; and

WHEREAS, Pursuant to General Municipal Law Sections 239(l) and (m), the proposed local law has been referred to the Cayuga County Department of Planning and Economic Development for review and comment, which Department has rendered comments that were duly considered and addressed by the Town Board and its professionals; and

WHEREAS, the Town of Fleming Planning Board has reviewed and considered the contents of the proposed local law, and has transmitted its recommendations on the law to the Town Board for the Board's consideration; and

WHEREAS, upon due notice, at the regular meeting of the Town Board held on July 13, 2020, the Town Board conducted a public hearing to hear and consider public comments on the proposed local law; and

WHEREAS, the Town Board also addressed the project's environmental impacts pursuant to the State Environmental Quality Review Act ("SEQRA") on July 13, 2020, declaring and identifying the action as an Unlisted Action and declaring a Negative Declaration under SEQRA for the project, which Negative Declaration was approved by a vote of 5-0; and

WHEREAS, upon due notice, at a regular meeting of the Town Board for the Town of Fleming held on July 13, 2020 at 6:30 p.m., the Town Board approved the enactment of the proposed local law amending the Town Zoning Law by a vote of 5-0; and

**NOW, THEREFORE, BE IT RESOLVED,**

that the Town of Fleming Town Board hereby enacts Local Law 2020-1 to amend the Town Zoning Law, the content of which is as follows:

1. The foregoing recitals are incorporated herein as if set forth at length.

2. Zoning Law Section 1-3 ("Word usage; Definitions") shall be amended by adding the following language:

Marina

A commercial use in the Lakeshore District whose purpose includes: the sale, servicing or rental of boats, watercraft, and marine equipment; sale of fuel for boats, watercraft and marine equipment; sale or rental of fishing, boating and incidental supplies; rental of dock or mooring space; restrooms and marine dump facilities; provision of winter storage for boats, watercraft or marine equipment; and provision of boat or watercraft access to Owasco Lake.

In addition, the Lakeshore District Bulk and Use Table (Page A-4) shall be amended to include "Marina" under the list of Uses Requiring a Special Use Permit. The dimensional limits shall be: min. lot size – 22,000 square feet; min. lot width – 80 feet; min. front setback – 50 feet; min. side setback – 20 feet; min. rear setback – 30 feet; min. green space – 75%; max. allowable coverage – 25%; and max. building height – 35 feet.

3. Zoning Law Article VI and the corresponding Agricultural District Bulk and Use Table (page A-1) shall be amended to reduce the minimum permitted lot size in the Agricultural District from the current ten (10) acres to two (2) acres for the following uses only:

Permitted Uses: Agricultural Operations, Farming Operations, One-Family Dwelling, Public Utilities Farm Stands, Accessory Uses, Accessory Structures and Uses

Uses Requiring a Special Use Permit: Automobile and General Repair, Commercial Garage, Fire Station, Child Care Facility including preschool, Restaurant, Two-Family Dwelling, Veterinary Services, Bed and Breakfast, Places of Worship, Greenhouse, Conversion of one-family to two-family dwelling, Home Occupation, Commercial Dog Kennel, Emergency Dwelling

4. Zoning Law Article VII and the corresponding R-2 Residential District Bulk and Use Table (page A-3) shall be amended to allow by special use permit certain accessory structures (*i.e.*, garages) on lots at least five (5) acres in size without a primary residence, subject to the provisions of Article VIII (Special Use Permits).
5. Zoning Law Article VII and the corresponding R-2 Residential District Bulk and Use Table (page A-3) shall be amended to increase the minimum lot size for Agricultural Based Business uses from 76,000 square feet to five (5) acres.



6. Zoning Law Article VII Section 7-16(A)(2)(b) and the corresponding Bulk and Use Tables (pages A-1 through A-7) shall be amended to set a minimum side and rear setback distance of ten (10) feet for accessory structures and buildings measuring less than 144 square feet in area in all zoning districts. Section 7-16(A)(2)(b) ("Accessory Structures and Uses") shall be amended as follows:

- b. Accessory structures and buildings less than 144 square feet in area (including but not limited to tool and storage sheds and gazebos) must have a ten (10) foot minimum side and rear yard setback distance, and will not require a building or zoning permit unless the total aggregate limit of unattached accessory structures and buildings on the lot will exceed 144 square feet. All accessory structures and buildings exceeding 144 square feet in area must comply with minimum setback requirements for the applicable zoning district as set forth under "Accessory Structures and Buildings" in the Bulk and Use Tables.

7. Zoning Law Article XII Section 12-4(c) shall be amended to exempt "posted property" signage from the minimum 10-foot side property setback distance requirement applicable to all other signage.

8. The definition of "Major Subdivision" in Zoning Law Article XVI Section 14-2 shall be amended to include a maximum limit of one (1) such subdivision allowed for a given lot over a ten-year period, as follows:

MAJOR SUBDIVISION – Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five (5) or more lots or any sized subdivision requiring a new street or extension of municipal facilities. Only one (1) major subdivision will be allowed for a given lot (as established by Tax ID number) within a ten (10) year span, as measured backwards from the date of the most recent application.

9. The definition of "Minor Subdivision" in Zoning Law Article XVI Section 14-2 shall be amended to allow a maximum aggregate total of four (4) subdivided parcels for a given lot over a ten-year period, as follows:

MINOR SUBDIVISION – Any subdivision which contains not more than four (4) lots fronting on an existing street; does not include any new street or road; does not require the extension of municipal facilities; does not adversely affect adjacent properties; and is not in conflict with any provision of the Comprehensive Plan and Official Zoning Map of the Town of Fleming, or these regulations. A maximum aggregate total of four (4) subdivided parcels will be allowed on a given lot (as established by Tax ID number) using the minor subdivision approach within a ten

(10) year span, as measured backwards from the date of the most recent application.

10. Zoning Law Article VIII's provisions will be reorganized and renumbered for convenience, and any typographical errors found elsewhere within the Zoning Law will be corrected.